

ORIGINAL



0000075121

July 30, 2007

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Arizona Corporation Commission ²⁸

DOCKETED

JUL 30 2007

DOCKETED BY

Re: Mohawk Utility Company – Application to extend a certificate of convenience and necessity. Docket No. W-02341A-06-0040

This information is provided in response to the Insufficiency Letter from Ms. Linda Jaress, dated March 8, 2007.

1. Attached is the Contract for Delivery of Domestic Water (#96-26-8-17-61) between Wellton-Mohawk Irrigation and Drainage District (WMIDD) and Mohawk Utility Company. This fully executed (July 25, 1997) and on-going contract provides Mohawk Utility Company with permanent water service (see paragraph 17) in a quantity of 200 acre feet per year. The water to the Irrigation District is assured through The Colorado River Compact between the States of Arizona, California, Colorado, Nevada and the Boulder Canyon Project Act (see paragraph 2). This is the only source of water provided by Mohawk Utility to its current and anticipated future customers. No groundwater is used, the service area is all within the current boundaries of the WMIDD and outside any AMA, thus excluding the involvement of Arizona Department of Water Resources approval.
2. Attached are recent records of payment by Mohawk Utility to Wellton-Mohawk Irrigation for the water used via the agreement. The average annual use is approximately 54 acre feet per year, for the approximate 135 current customers served by Mohawk Utility. This leaves un-used allocation of 146 acre feet of domestic water per year. Mohawk Utility also pays the semi-annual reservation fee charged by Wellton-Mohawk Irrigation to retain the un-used allocation.

Submitted by Jeffrey Jennings, per Notice of Intervention approved May 21, 2007, on behalf of Mohawk Utility.

Jeffrey Jennings
38 East, LLC
4371 East Colter
Phoenix, Arizona 85018
CC; 13 copies Arizona Corporation Commission
Mohawk Utility

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2007 JUL 30 P 1:39
AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

CONTRACT FOR DELIVERY OF DOMESTIC WATER

WELLTON-MOHAWK IRRIGATION AND DRAINAGE DISTRICT
and
MOHAWK UTILITY COMPANY

CONTRACT NO. 96-26-8-17-61

This Contract is entered into this 19th day of DECEMBER, 1997,
between WELLTON-MOHAWK IRRIGATION AND DRAINAGE DISTRICT, a
municipal corporation created, organized and existing under and by virtue of the
laws of the State of Arizona, hereinafter referred to as "DISTRICT", and MOHAWK
UTILITY COMPANY, an Arizona Corporation, hereinafter referred to as "MOHAWK".

DISTRICT and the United States Bureau of Reclamation, on 17 July 1981,
entered into consolidated contract No. 1-07-30-W0021 entitled "Amendatory and
Supplemental Consolidated Contract with Wellton-Mohawk Irrigation and Drainage
District for Construction of Works, Repayment, and Project Power Supply". Article
6(b) of that contract relating to domestic water, permits DISTRICT to contract to
supply and deliver for domestic uses, exclusively within the exterior boundaries of
DISTRICT, a portion of the water available to DISTRICT under the contract with the
United States.

MOHAWK is a duly qualified and licensed corporation under the laws of the
State of Arizona, and it represents that it is authorized by its Articles of Incorporation,
as well as by applicable Arizona law, to distribute water for domestic use within the
area hereinafter designated.

DISTRICT and MOHAWK desire to enter into an agreement wherein DISTRICT
shall furnish untreated domestic water to MOHAWK for resale within the water

1 service area as defined on the attached plat, marked Exhibit "A" and by this
2 reference made a part hereof, subject to the terms and conditions of this contract.
3

4 The original Contract for Domestic Water between DISTRICT and Engineering
5 Trust Company, Inc., which authorized delivery of domestic water to Citrus City
6 subdivisions, was dated 3 February 1969, and was amended on 23 March 1971.
7 That contract has been voided by MOHAWK's acquisition of the rights and
8 obligations of Engineering Trust Company, Inc. on 27 July 1978.
9

10 This contract

- 11 1. supersedes, and incorporates and consolidates all amendments
12 or revisions to, all previous contracts for delivery of domestic water
13 to the service area named therein,
- 14 2. revises Article 2(a) to decrease the maximum quantity of water
15 available for delivery to MOHAWK, from 400 acre-feet per calendar
16 year to 200 acre-feet per calendar year, and,
- 17 3. enlarges the water service area.
18

19 In consideration of the mutual covenants hereinafter contained, the parties
20 hereto agree as follows:
21

22 1. Definitions

23 a) The Colorado River Compact, herein referred to, is the compact or
24 agreement signed at Santa Fe, New Mexico, on 24 November 1922, pursuant to an
25 act of Congress approved 19 August 1921, entitled "An Act to permit a compact or
26 agreement between the States of Arizona, California, Colorado, Nevada, New
27 Mexico, Utah and Wyoming respecting the disposition and apportionment of the
28 waters of the Colorado River, and for other purposes", which Compact was
approved in Section 13(a) of the Boulder Canyon Project Act.

1
2
3 b) The term "domestic" as used in this contract, shall include water uses
4 defined as "domestic" in the Colorado River Compact.

5 c) The term "use within the water service area", as used by this contract
6 shall include municipal and other domestic uses of water within MOHAWK's
7 service area.

8
9 d) Regional Director as used in this contract shall mean the Regional
10 Director, Lower Colorado Region, Bureau of Reclamation, and shall include the
11 duly appointed successor or authorized representative.

12 2. Delivery of Water by DISTRICT

13 a) To provide water exclusively for domestic use by MOHAWK, DISTRICT will,
14 from waters available to it and subject to all the terms and conditions of the 1981
15 consolidated contract, deliver to MOHAWK at a point or points on DISTRICT's
16 Mohawk Canal, or laterals therefrom as may hereafter be agreed upon, at a
17 composite rate not to exceed 600 gallons per minute, such quantities of water as
18 may be necessary to supply MOHAWK, on lands which are within the exterior
19 boundaries of DISTRICT, a total quantity, including all other waters diverted from
20 DISTRICT's system, or by any water company or other person, firm or corporation,
21 for use by MOHAWK, not in excess of 200 acre feet per calendar year, subject to the
22 availability of such water for use in Arizona under the provisions of the Colorado
23 River Compact and the Boulder Canyon Project Act.

24 Further, no water shall be delivered by MOHAWK to a water user in
25 circumstances where the operations of the water user contaminate or pollute: 1)
26 the ground water underlying lands within DISTRICT; 2) the water in the irrigation
27 and drainage works within DISTRICT, or; 3) the surface flow or underflow of the Gila
28 River or the Colorado River, all as determined in any instance by DISTRICT or the
United States of America. If DISTRICT or the United States of America determines

1 such water contamination or pollution is occurring or has occurred because of any
2 of the circumstances specified above, they shall notify the water user to correct the
3 situation and to stop said contamination or pollution. If the water user fails to do
4 so, DISTRICT or the United States shall notify MOHAWK, and MOHAWK shall
5 thereupon terminate supply or delivery of domestic water to said user or contractor
6 and shall not reinstate such supply or delivery without the written approval of the
7 United States.

8
9 b) MOHAWK shall make a written report to DISTRICT on or before January 20 of
10 each year, beginning January 20, 1998 on a form or forms satisfactory to DISTRICT,
11 covering, among other things, the quantity of water delivered during the preceding
12 calendar year by MOHAWK, the points of delivery, the nature of the use thereof, and
13 its disposition as well as the quantity of return flow to the Colorado or Gila Rivers, if
14 any, and the points thereof.

15 c) The furnishing of water by DISTRICT hereunder does not constitute and
16 shall not be deemed to be, by implication or otherwise, the basis of a claim of a
17 grant of, or a recognition of a claim to a water right to MOHAWK or any of
18 MOHAWK's users or any commitment by the United States or DISTRICT to deliver
19 water to MOHAWK.

20 d) This contract is expressly subordinate to all requirements for water for
21 irrigation use in DISTRICT and is specifically subject to the prior fulfillment of all
22 contracts now or hereinafter made by the United States for the diversion of
23 Colorado River water at Imperial Dam or elsewhere and for delivery of such water
24 through the Gila Gravity Main Canal or the All-American Canal for the irrigation of
25 lands in the State of Arizona and for the delivery to DISTRICT for any purpose
26 whatsoever, and further that it is expressly understood and agreed to by MOHAWK
27 that this contract is subject to the condition that waters deliverable by the United
28 States shall be used first for river regulation, improvement of navigation, and flood
control; second, for irrigation and domestic uses and satisfaction of perfected

1 rights in pursuance of Article 8 of the Colorado River Compact approved by Section
2 13(a) of the Boulder Canyon Project Act; and, third, for power, and furthermore that
3 this contract is made upon the express condition and with the express covenant
4 that all rights hereunder shall be subject to and controlled by the Colorado River
5 Compact and that DISTRICT and MOHAWK shall observe and be subject to and
6 controlled by said Colorado River Compact and Boulder Canyon Project Act.
7 MOHAWK relieves and releases and shall hold DISTRICT and the United States
8 and their respective officers, agents, and employees harmless from every claim for
9 damages or other relief in the event the United States discontinues or reduces the
10 amount of water delivered to DISTRICT under the 1981 consolidated contract, or in
11 the event DISTRICT discontinues or reduces the amount of water delivered to
12 MOHAWK under this contract, or in the event DISTRICT, for any reason whatsoever,
13 fails to furnish water to MOHAWK. MOHAWK expressly relieves and releases and
14 shall hold the United States and DISTRICT and their respective officers, agents and
15 employees harmless from every claim for damages or relief and from any liability or
16 responsibility whatsoever for the quality, composition or contents of the water so
17 delivered or any lack of fitness of such water for any use thereof, either at the point
18 of delivery or thereafter.

19 3. Interest in Contract Not Transferable

20 It is mutually understood and agreed between the parties hereto that the rights
21 of MOHAWK under the terms of this contract shall not be transferable by MOHAWK,
22 provided that MOHAWK may, with the written approval of DISTRICT, assign its rights
23 hereunder to a duly constituted public utility holding a certificate of convenience and
24 necessity authorizing it to distribute domestic water in MOHAWK's water service
25 area under the laws of the State of Arizona. As a condition precedent to any such
26 assignment, the assignee public utility must agree to assume, be bound by and
27 perform all provisions required of MOHAWK in this contract. Any transfer attempted
28 in violation of the terms of this Article shall be null and void.

1
2
3 4. Delivery Facilities and Maintenance Thereof.

4 The installation of and type of facilities whereby water is delivered from
5 DISTRICT canals to MOHAWK, including all metering devices, must be first
6 approved in writing by DISTRICT and shall be installed by DISTRICT forces or a
7 licensed contractor approved by DISTRICT, all at the sole expense of MOHAWK.
8 Such metering devices shall be read and maintained by DISTRICT at MOHAWK's
9 expense and all charges therefor shall be paid promptly upon billing.

10 5. Boundaries of MOHAWK Service.

11 MOHAWK shall be required to submit to DISTRICT a legal description of the
12 boundary of its service area with a copy of a resolution of its governing body
13 approving the same. In the event the boundary is enlarged, MOHAWK shall, prior to
14 delivery of water to the enlarged area, again submit to DISTRICT a legal description
15 of such change with a copy of a resolution of its governing body approving the
16 same and obtain an amendment to this contract authorizing such delivery prior to
17 any such delivery to that enlarged area. For the purpose of this contract,
18 MOHAWK's water service boundary is described as:

19 The SW 1/4 of Section 26, that portion of the SW 1/4 of Section 27 lying southerly
20 of DISTRICT's Mohawk Canal, the S 1/2 of the SE 1/4 and the N 1/2 of the S 1/2 of
21 the SW 1/4 of Section 28, the SE 1/4 of the NE 1/4 of Section 34, and that portion of
22 the NW 1/4 of Section 35 lying northerly of Highway 80. All in Township 8 South,
23 Range 17 West, G&SRB&M, Yuma County, Arizona, and as depicted on the above
24 referenced Exhibit "A".

25 6. Charge for Delivery of Water and Points of Delivery

26 The charges to be paid by MOHAWK to DISTRICT hereunder for operation and
27 maintenance of DISTRICT facilities shall be paid quarterly on or before 15 January,
28 15 April, 15 July, and 15 September of each year for the preceding quarterly period.
Points of delivery and applicable rate schedules are as follows:

1
2
3 a) All water delivered to MOHAWK's treatment plant at the M 14.03 will be billed
4 in accordance with the then-current Water Rate Schedule 4 - Municipal and
5 Subdivision Water Service (see attached Water Rate Schedule, marked Exhibit "B",
6 and by this reference made a part hereof).

7 b) DISTRICT reserves the right to review and revise charges for water service
8 under this contract in accordance with prudent management practices.

9
10 c) Irrigable land, which existed as of 1 July 1965 within MOHAWK's water
11 service boundaries, shall retain all legal rights and obligations thereof, provided,
12 however, that said irrigable land may, pursuant to the 1981 consolidated contract
13 and laws affecting DISTRICT, be determined to be non-irrigable.

14 7. Water Not Transferable

15 No water delivered hereunder shall be sold, given, or used for any purpose
16 other than by MOHAWK, and only then, solely within the boundaries as approved by
17 DISTRICT, as provided herein.

18 8. Refusal of Water in Case of Default

19 DISTRICT reserves the right to refuse to deliver water hereunder in the event of
20 default for a period of more than sixty (60) days in any payment due or to become
21 due DISTRICT under this contract.

22
23 9. Right of Inspection

24 DISTRICT or its representatives shall at all times have the right of ingress to
25 and egress from all works utilized by MOHAWK or by any other person, firm or
26 corporation for the diversion, processing, storage and distribution of water
27 delivered hereunder for the use by MOHAWK, for the purpose of inspection of such
28 works and for all other proper purposes. DISTRICT or its representatives shall
also have free access at all reasonable times to MOHAWK's books and records

1 relating to the diversion, processing, storage and distribution of water delivered
2 hereunder with the right, at any time during office hours, to make copies of or from
3 same. Except in an emergency, written notice shall be given in advance of such
4 inspection.

5
6 10. Rules and Regulations

7 There is reserved to DISTRICT the right to prescribe and enforce rules and
8 regulations not inconsistent with this contract governing the delivery and diversion
9 of water hereunder. Such rules and regulations shall be promulgated, modified,
10 revised or extended from time to time after notice to MOHAWK and an opportunity
11 for it to be heard as may be deemed proper, necessary or desirable by DISTRICT to
12 carry out the true intent and meaning of applicable laws, of this contract, and of any
13 amendments hereof, and/or to protect the interest of DISTRICT. MOHAWK hereby
14 agrees that in the operation and maintenance of the works for the diversion of water
15 for use by MOHAWK and all works appurtenant thereto or otherwise associated
16 therewith, all such rules and regulations will be fully adhered to.

17 11. Waiver Non-Exclusive

18 Nothing in this contract shall be construed as in any manner abridging, limiting
19 or depriving DISTRICT or MOHAWK of any means of enforcing any remedy, either at
20 law or in equity, for the breach of any of the provisions hereof which it would
21 otherwise have. The waiver of a breach of any of the provisions of this contract
22 shall not be deemed to be a waiver of any other provisions hereof, or of any other or
23 subsequent breach of any provision hereof.

24 12. No Solicitation

25 MOHAWK warrants that no person or agency has been employed or retained to
26 solicit or secure this agreement upon an agreement or understanding for a
27 commission, percentage, brokerage, or contingent fee, excepting bona fide
28 employees or bona fide established commercial agencies maintained by
MOHAWK for the purpose of seeing to MOHAWK's interest. For breach or violation

1 of this warranty, DISTRICT shall have the right to annul this agreement without
2 liability or, in its discretion, to require MOHAWK to pay in addition to the contract
3 price or consideration the full amount of such commission, percentage, broker, or
4 contingent fee.

5
6 13. Equal Opportunity Clause

7 MOHAWK will comply with all provisions of Executive Order 11246 dated 24
8 September 1965 (30 F. R. 12319, dated 28 September 1965), and all applicable
9 rules, regulations, orders, instructions, and other directives issued thereunder or in
10 connection therewith.

11
12 14. Civil Rights Provision

13 MOHAWK hereby agrees to comply with Title VI (Section 601) of the Civil Rights
14 Act of 2 July 1964 (79 Stat. 241), which provides that "No person in the United
15 States shall, on the grounds of race, color, or national origin, be excluded from
16 participation in, be denied the benefits of, or be subject to discrimination under any
17 program or activity receiving Federal financial assistance, " and to be bound by the
18 regulations of the Department of Interior for the effectuation thereof, as set for in 43
19 CFR 17.

20
21 15. Reservation of Right to DISTRICT

22 DISTRICT reserves the right to temporarily discontinue or reduce the amount of
23 water to be delivered hereunder whenever such discontinuance or reduction is
24 made necessary for purposes of investigations, inspections, replacements,
25 maintenance or repairs to any works whatsoever affecting, utilizing or in the opinion
26 of DISTRICT necessary for delivery of water hereunder, it being understood that as
27 far as feasible, DISTRICT will give reasonable notice in advance of such temporary
28 discontinuance or reduction.

1
2
3 16. Right of Termination

4 DISTRICT may terminate this contract upon (a) the breach of any term or
5 condition hereof by MOHAWK and failure to correct same after 10 days written
6 notice thereof to MOHAWK by DISTRICT, or (b) if DISTRICT determines, in its sole
7 discretion, that water deliverable hereunder has not been used and MOHAWK has
8 abandoned the use thereof.

9 17. Permanent Water Service

10 Subject to the terms, conditions and provisions set forth herein and the contract
11 affecting DISTRICT, this contract is for permanent water service.

12 18. Priority of Claims of DISTRICT

13 Claims of DISTRICT arising out of this contract shall have priority over all others,
14 secured or unsecured.

15 19. Approval by Secretary

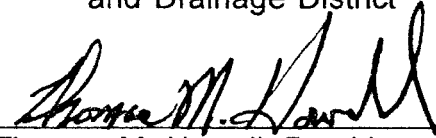
16 This contract must be approved in writing by the Secretary of Interior or his
17 representative as a condition precedent to becoming effective. Upon execution by
18 both parties, this contract shall be submitted to the Secretary for approval. Both
19 parties understand and agree that said approval shall not relieve DISTRICT of any
20 obligation or duty assumed by it under the 1981 consolidated contract, nor will such
21 approval be deemed to constitute or imply any opinion of the Secretary as to the
22 merits of this contractual arrangement or any part thereof, nor constitute MOHAWK
23 a party to the 1981 consolidated water delivery contract or the holder of any right of
24 any kind thereunder against the United States for any purpose whatsoever.

25
26 Each of the foregoing provisions of this Article shall be applicable to any
27 proposed amendment to this contract.
28

Attn: Rodney Moore

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

Wellton-Mohawk Irrigation
and Drainage District



Thomas M. Howell, President

Mohawk Utility Company, Inc.

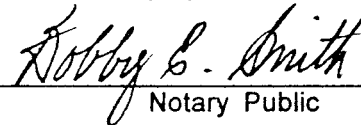


Robert C. Rockwell, President

STATE OF ARIZONA)
County OF YUMA) ss.

On this 29th day of July, 1997, before me, the undersigned Notary Public, personally appeared Thomas M. Howell, who acknowledged himself to be the President of the Wellton-Mohawk Irrigation And Drainage District and acknowledged that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

I hereunto set my hand and seal.

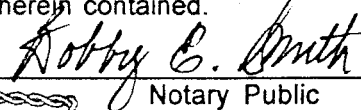

Notary Public

My Commission Expires: 7-1-01

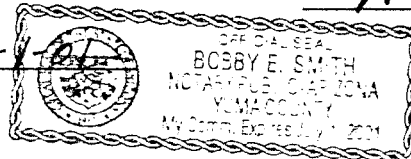
STATE OF ARIZONA)
County of YUMA) ss.

On this 25 day of July, 1997, before me, the undersigned Notary Public, personally appeared Robert C. Rockwell, who acknowledged himself to be the President of Mohawk Utility Company, Inc., and acknowledged that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

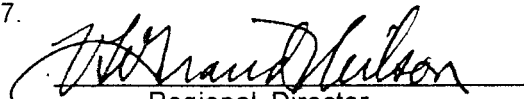
I hereunto set my hand and seal.


Notary Public

My Commission Expires: 7-1-01



Approved this 19th day of December, 1997.

By: 
Regional Director
Lower Colorado River Region
U. S. Bureau of Reclamation

ACTING FOR

Wellton-Mohawk Irrigation & Drainage District

Wellton, Arizona 85356

BILL NO. M-8711

BILL FOR COLLECTION OF MISCELLANEOUS REVENUE

April 3, 2006

Mohawk Utility

36140 Antelope Drive
Wellton, Az. 85356

When tender is made in any form other than Cash or
Postal Money Order this receipt will not become an
Acquittance until Collection is made.

TO WELLTON-MOHAWK IRRIGATION & DRAINAGE DISTRICT, DR.

PARTICULARS OF THE TRANSACTION	AMOUNT
Untreated Domestic Water 1st Quarter, 2006	
4,023,780 Gallons = 12.34 A/F @ \$30.00	370 20
Amount Advanced	(2,145 00)
TOTAL	(1,774 80)

APPROVED BY

Bobby Smith

Bobby Smith, Office Manager

A-11 ROSEBUD CUSTOM PRINTING, ROSEBUD, TEXAS

REC'D PAYMENT _____, 20__

BY _____

CHECK _____ MAIL _____

CASH _____ OFFICE _____

Wellton-Mohawk Irrigation & Drainage District

BILL NO. M-8760

Wellton, Arizona 85356

BILL FOR COLLECTION OF MISCELLANEOUS REVENUE

July 10, 2006

Mohawk Utility Co
36149 Antelope Drive
Wellton, Az. 85356

When tender is made in any form other than Cash or
Postal Money Order this receipt will not become an
Acquittance until Collection is made.

TO WELLTON-MOHAWK IRRIGATION & DRAINAGE DISTRICT, DR.

PARTICULARS OF THE TRANSACTION	AMOUNT	
Untreated Domestic Water 2nd quarter 2006	375	90
4,082,900 Gallons = 12.53 A/F @ \$30.00 =		
Amount Advanced	(3900	00)
Amount used 1st quarter	307	20
TOTAL	(3216	90)

REC'D PAYMENT _____ 20__

APPROVED BY

BY _____

CHECK _____ MAIL _____

CASH _____ OFFICE _____

Bobby Smith Office Manager

A-11 ROSEBUD CUSTOM PRINTING, ROSEBUD, TEXAS

Wellton-Mohawk Irrigation and Drainage District

BILL NO. M-8799

OCTOBER 6, 2006

BILL FOR COLLECTION OF MISCELLANEOUS REVENUE

30570 Wellton-Mohawk Dr.
Wellton, Arizona 85356

Tel. (928) 785-3351
Fax (928) 785-3389

MOHAWK UTILITY CO.

36140 ANTELOPE DRIVE

WELLTON, AZ 85356

When tender is made in any form other than Cash or
Postal Money Order this receipt will not become an
Acquittance until Collection is made.

TO WELLTON-MOHAWK IRRIGATION & DRAINAGE DISTRICT

PARTICULARS OF THE TRANSACTION	AMOUNT
Untreated domestic water 3 rd quarter 2006	
540944 Gallons = 17.62 A/F @ \$30.00 =	528 60
Amount advanced	3900 00
Amount used 1 st & 2 nd quarter	746 10
Credit Available for 4th quarter	
TOTAL	(\$2625 30)

REC'D PAYMENT _____, 20____

BY _____

CHECK _____ MAIL _____

APPROVED BY


BOBBY SMITH, OFFICE MANAGER

Wellton-Mohawk Irrigation and Drainage District

BILL NO. _____

JANUARY 11, 2007

BILL FOR COLLECTION OF MISCELLANEOUS REVENUE

30570 Wellton-Mohawk Dr.
Wellton, Arizona 85356Tel. (928) 785-3351
Fax (928) 785-3389MOHAWK UTILITY CO36140 ANTELOPE DR.WELLTON, AZ 85356When tender is made in any form other than Cash or
Postal Money Order this receipt will not become an
Acquittance until Collection is made.

TO WELLTON-MOHAWK IRRIGATION & DRAINAGE DISTRICT

PARTICULARS OF THE TRANSACTION	AMOUNT
Untreated domestic water 4th quarter 2006 423023 gallons = 12.98 A/F @ \$30.00 =	\$389 40
Amount advanced	\$3900 00
Amount used 1 st , 2 nd & 3 rd quarter	\$1274 70
Minimum applied to usage	
TOTAL <i>2006</i>	<i>.00</i>

APPROVED BY



BOBBY SMITH, OFFICE MANAGER

REC'D PAYMENT _____, 20____

BY _____

CHECK _____ MAIL _____

CASH _____ OFFICE _____